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31 AUG 2007

BASELL USA INC.  
INTELLECTUAL PROPERTY  
912 APPLETON ROAD  
ELKTON MD 21921

In re Application of: DAMRAU, et al.  
U.S. Application No.: 10/532,522  
PCT No.: PCT/EP2003/011678  
International Filing Date: 22 October 2003  
Priority Date: 25 October 2002  
Atty Docket No.: 09086-00111-US  
For: RACEMOSELCTIVE  
PREPARATION OF BRIDGED  
METALLOCENE COMPLEXES  
HAVING UNSUBSTITUTED OR 2-  
SUBSTITUTED INDENYL  
LIGANDS

DECISION ON PETITION  
(37 CFR 1.181)

This decision is issued in partial response to the "Petition Under 37 CFR 1.703 To Correct Patent Term Adjustment" filed on 27 June 2007, treated in part herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date for the present application.

A separate decision will be issued which specifically addresses the extension of the Patent Term Adjustment requested in applicants' 27 June 2007 petition, in view of the present decision.

**BACKGROUND**

On 22 October 2003, applicants filed international application PCT/EP2003/011678. The international application claimed a priority date of 22 October 2003, and it designated the United States. On 06 May 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 April 2005.

On 25 April 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

In June 2005, applicants filed a document entitled "Transmittal Missing Requirements," accompanied by an executed declaration and payment of the surcharge for filing the executed declaration later than thirty months after the priority date.

On 24 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) identifying 28 June 2005 as the date of

receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements. On the same date, a filing receipt was issued identifying 28 June 2005 as the 35 U.S.C. 371(c) date.

On 23 March 2007, the USPTO mailed a Notice of Allowance (Form PTOL-85). The Notice of Allowance indicated that the Patent Term Adjustment to date was 207 days.

On 27 June 2007, applicants filed the petition materials considered in part herein. The petition asserts that the proper 35 U.S.C. 371(c) date herein is 24 June 2005, rather than 28 June 2005, and that the Patent Term Adjustment should therefore be increased by 4 days.

### DISCUSSION

Accompanying the present petition is a copy of a return postcard which itemizes the materials filed by applicants to complete the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), including the executed declaration. The return postcard bears a USPTO receipt stamp dated 24 June 2005.

Based on the applicants' statements and the copy of the stamped return postcard included with the present petition, it is concluded that the executed declaration filed to complete the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was filed herein on 24 June 2005.

### CONCLUSION

Applicants' petition under 37 CFR 1.181 for correction of the 35 U.S.C. 371(c) date is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 24 January 2006, both of which incorrectly identified the 35 U.S.C. 371(c) date as 28 June 2005, are hereby **VACATED**.

The application is being referred to the National Stage Processing Branch of the International Division for issuance of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt identifying **24 June 2005** as the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4).

As noted above, a separate decision will be issued which specifically addresses the extension of the Patent Term Adjustment requested in applicants' 27 June 2007 petition, in view of the present decision.

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